



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – JANUARY 9, 2007

FULL BOARD MEETING MINUTES¹

JANUARY 9, 2007

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Sean Harrigan, President
Anne Sheehan, Vice President
Maeley Tom, Member
William Elkins, Member
Patricia Clarey, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

- A.** The Receiver in the *Plata* case is interested in meeting with SPB at the mid-month Board Meeting on January 23, 2007 at 1:00 p.m. The Receiver's Office said they would send a letter outlining the issues they are concerned about. From the meeting, SPB hopes to find clarification on the following matters: the Receiver's authority, SPB's obligations pursuant to the Constitution to the State of California, instances where employee and third party rights are involved, and the Pre-Employment Drug Testing question.
- B.** Miguel Neri, a deputy in the Attorney General's office, will be available on a conference call this afternoon.
- C.** SPB is currently working with DPA to come up with a comprehensive HR Reform Proposal. SPB has dedicated three of our staff members to the project: Mary Fernandez, Carol Ong, and Donna Terrazas.

3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA) – DPA Representatives

- A.** Dave Gilb, Director of the Department of Personnel Administration, gave a brief report on the kick-off of SPB's and DPA's joint effort on the Human Resources Modernization Project.
- B.** Daryll Tsujihara, Division Chief of the Department of Personnel Administration, sincerely expressed his gratitude to Mr. Elkins for his service on the Board.

¹ The Minutes for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

4. REPORT OF CPS HUMAN RESOURCE SERVICES

Judy Capaul, Manager of Consulting Services, CPS Human Resource Services, gave a brief report on recent activities of CPS Human Resource Services.

5. REPORT OF THE CHIEF COUNSEL – Elise Rose

NONE PRESENTED

6. NEW BUSINESS

NONE PRESENTED

7. REPORT ON LEGISLATION

NONE PRESENTED

8. ELECTION OF BOARD OFFICERS

On January 9, 2007, the Board unanimously elected Mr. Harrigan to serve as the President, Ms. Sheehan to serve as the Vice President, and additionally, the Board also unanimously elected Ms. Tom to serve as the representative to the California Public Employees' Retirement System (CalPERS) Board of Administration for calendar year 2007.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

**9. HEARING – PUBLIC HEARING ON PROPOSED COST SAVINGS
REGULATIONS UNDER GOVERNMENT CODE SECTION 19130,
SUBDIVISION (A)**

– Bruce Monfross, State Personnel Board

Persons Participating:

Bruce Monfross – California State Personnel Board
Anne M. Giese – SEIU Local 1000
Daniel Rounds – SEIU Local 1000

ACTION: SUBMITTED

10. ORAL ARGUMENT

In the matter of **PERSONAL SERVICES CONTRACT #06-02**. Appeal of AFSCME from Executive Officer Decision Approving Department of Corrections and Rehabilitation. Personal Services Contracts for Psychological Services.

Persons Participating:

Chris Swanberg, Senior Staff Counsel, California Department of Corrections and Rehabilitation, representing Department.

Andrew Baker, Attorney, Beeson, Tayer & Bodine, representing appellant, AFSCME Local 2620.

ACTION: SUBMITTED

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

11. ORAL ARGUMENT

In the matter of **PERSONAL SERVICES CONTRACT #06-04**. Appeal of California Air Resources Board from Executive Officer Decision Disapproving Personal Services Contract for Hearing. Reporter Transcription Services. SEIU Local 1000.

Persons Participating:

Alexander Wong, Senior Staff Counsel, California Air Resources Board, representing appellant.

Anne M. Giese, Attorney, SEIU Local 1000, representing respondent.

12. NEW EMPLOYEE ORIENTATION – State Personnel Board Staff

The State Personnel Board's new employees were introduced.

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

13. INFORMATIONAL UPDATE – AVIAN FLU AND PANDEMIC FLU, STATUS AND PREPARATIONS

– **Dr. Stephen Weyers, State Personnel Board**

A presentation was made focusing on the status, concerns, preparedness, and progress of the Avian Flu and Pandemic Flu.

14. PROPOSED BOARD ITEM TO REVISE CLASSIFICATION PRESENTED BY DEPARTMENTAL STAFF

At the request of the Executive Officer, the following classification request has been placed on the calendar for the board's consideration:

FINANCE PROGRAM EVALUATOR, DEPARTMENT OF FINANCE

ACTION: Board Members: Harrigan, Tom, Elkins, and Clarey (Member Sheehan recused) agreed to delegate the Finance Program Evaluator, Department of Finance classification request to the Executive Officer for decision.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

15. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

16. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]
(See Action Taken on Pages 14–21)

17. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.
Case No. C01-1351 TEH

18. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

NO ACTION

19. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

**20. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF
JANUARY 23, 2007, IN SACRAMENTO, CALIFORNIA**

NONE

BOARD ACTIONS:

**21. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
DECEMBER 5, 2006**

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

22. EVIDENTIARY CASES

ACTION: See Case Listings on Pages 14–24

**23. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION - (See Minutes on Pages 31–32)**

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

24. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Pages 24–26

25. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On January 9, 2007, the following proposals were presented to the Board by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

TAX AUDITOR, EMPLOYMENT DEVELOPMENT DEPARTMENT

The Employment Development Department (EDD) proposes the establishment of the Tax Auditor, EDD deep class with a one-year probationary period. In conjunction, EDD proposes the following: the establishment of Alternative Range Criteria 446; abolish the classification of Tax Auditor II, EDD; change the existing title of Tax Auditor III, EDD, to Associate Tax Auditor, EDD; change the existing title of Tax Auditor IV, EDD to Staff Tax Auditor, EDD; reallocate affected incumbents; and revise the Tax Auditor/Tax Supervisor, EDD series specification to reflect the classification changes noted above and to update the terminology used in the specification.

ACTION: WITHDRAWN

INTEGRATED WASTE MANAGEMENT SPECIALIST

The California Integrated Waste Management Board (CIWMB) requests to add a new classification titled, Integrated Waste Program Manager, to the existing Integrated Waste Management Specialist classification series, to recognize the managerial responsibilities within the series.

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

**SENIOR MECHANICAL ENGINEER, CALTRANS (SPECIALIST)
SENIOR MECHANICAL ENGINEER, CALTRANS (SUPERVISOR)**

The California Department of Transportation (Caltrans) proposes to broaden the current minimum qualifications for the classes of Senior Mechanical Engineer, Caltrans (Specialist) and Senior Mechanical Engineer, Caltrans (Supervisor) by including the class of Mechanical Engineer, Range D, which will allow departmental employees in the class of Mechanical Engineer to compete in the examinations for the above mentioned classes.

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

ASSISTANT INSPECTOR GENERAL, BUREAU OF INDEPENDENT REVIEW

As recommended by the court appointed Special Master, as a result of a federal district court decision (Madrid v. Tilton), the Office of Inspector General (OIG) and the Department of Personnel Administration (DPA) propose the establishment of a new civil service class series titled Assistant Inspector General, Bureau of Independent Review (BIR) consisting of the following classes: Special Assistant Inspector General, Bureau of Independent Review; Senior Assistant Inspector General, Bureau of Independent Review; and Chief Assistant Inspector General, Bureau of Independent Review; each class established with a twelve month probation period.

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

NONE

26. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

27. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DEPUTY DIRECTOR, STATEWIDE MENTAL HEALTH PROGRAM

The California Department of Corrections and Rehabilitation proposes to re-allocate the existing CEA position titled Project Director, Mental Health Program to the above titled position. The proposed re-allocated CEA position Deputy Director, Statewide Mental Health Program will be responsible for working and complying with litigation mandates, specifically *Coleman vs. Schwarzenegger*, which directly impacts the quality and accessibility of mental health and other health services available to adult inmates under the jurisdiction of the CDCR.

ASSISTANT SECRETARY, CALIFORNIA CHILD WELFARE COUNCIL, OFFICE OF PROGRAM AND FISCAL AFFAIRS

The California Health and Human Services Agency proposes to allocate the above position to the CEA category. The Assistant Secretary, California Child Welfare Council, Office of Program and Fiscal Affairs formulates, analyzes, revises, interprets, and evaluates public child welfare program and fiscal policies and coordinates and supports the activities of the California Child Welfare Council.

CHIEF, OFFICE OF PERFORMANCE IMPROVEMENT AND LONG TERM PLANNING

The Department of Toxic Substance Control proposes to allocate the above position to the CEA category. The Chief, Office of Performance Improvement and Long Term Planning will have a major role in establishing departmental policy, and influencing statutes and regulations that will affect environmental issues in business and industry throughout the state.

CHIEF, PHARMACY BENEFITS DIVISION

The Department of Health Services proposes to allocate the above position to the CEA category. The Chief, Pharmacy Benefits Division is responsible for initiating, developing and implementing all pharmacy, medical supply, and nutritional benefit fee-for-services program policies and procedures that are based upon state and federal statutes and regulations.

CHIEF, THIRD PARTY LIABILITY AND RECOVERY DIVISION

The Department of Health Services proposes to allocate the above position to the CEA category. The Chief, Third Party Liability and Recovery Division is responsible for developing, planning, organizing, implementing, and managing innovative recovery and cost avoidance mechanisms that are efficient and cost effective while still providing health care access for all Medi-Cal beneficiaries.

DEPUTY DIRECTOR, EXTERNAL AFFAIRS

The Board of Equalization is proposing to re-allocate the existing CEA allocation titled Customer and Taxpayer Services Division to the above position. The Deputy Director, External Affairs will have full responsibility for identifying major program developments and policy changes for public policy implication and possible media exposure; and recommends and formulates policies concerning information disseminated outside of the Agency.

ASSOCIATE DIRECTOR, ACCOUNTING SERVICES, DIVISION OF SUPPORT SERVICES (DSS)

The California Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Associate Director, Accounting Services, Division of Support Services will serve as the department's head of all accounting operations and will set major financial operational policy.

CHIEF, OFFICE OF CIVIL RIGHTS AND RETURN TO WORK

The Department of Industrial Relations proposes to allocate the above position to the CEA category. The Chief of the Office of Civil Rights and Return to Work, managed the unit and provides counsel and policy advise in the areas of ADA, Reasonable Accommodation, EEO, Discrimination, Harassment, Return to Work, and medical privacy.

DIVISION CHIEF, TALENT MANAGEMENT DIVISION

The State Teachers' Retirement System (CalSTRS) proposes to allocate the above position to the CEA category. The Director, Talent Management Division, will provide full management responsibility over human resources, training and development, performance management, diversity enrichment, and strategic planning, event planning, and health and safety.

DIRECTOR, FACILITIES MANAGEMENT, PLANNING AND SERVICES

The State Teachers' Retirement System (CalSTRS) proposes to allocate the above position to the CEA category. The Director, Facilities Management, Planning and Services oversees the administration and development of the facilities of CalSTRS, a \$153 billion pension fund employing approximately 1,000 staff and contractors serving over 800,000 active and retired members.

DIRECTOR OF CUSTOMER SERVICES

The State Teachers' Retirement System (CalSTRS) proposes to allocate the above position to the CEA category. The Director of Customer Services formulates and administers policies having statewide impact regarding the delivery of member services.

DIRECTOR, DISABILITY AND SURVIVOR BENEFITS

The State Teachers' Retirement System (CalSTRS) proposes to allocate the above position to the CEA category. The Director, Disability and Survivor Benefits is responsible for policy formulation and execution impacting the statewide administration and payment of benefits for Disability and Survivor member benefits and associated services.

DIRECTOR, MEMBER ACCOUNT SERVICES

The State Teachers' Retirement System (CalSTRS) proposes to allocate the above position to the CEA category. The Director, Member Account Services is responsible for policy formulation and execution impacting the statewide administration of active contributing members and participant accounts.

DIRECTOR, SERVICE RETIREMENT

The State Teachers' Retirement System (CalSTRS) proposes to allocate the above position to the CEA category. The Director, Service Retirement is responsible for policy formulation and execution impacting the statewide administration and payment of benefits for active, inactive, and retired members and their beneficiaries.

DIRECTOR, CLIENT OUTREACH AND GUIDANCE

The State Teachers' Retirement System (CalSTRS) proposes to allocate the above position to the CEA category. The Director, Client Outreach and Guidance has full management authority over the member counseling, counselor training, and outreach efforts to CalSTRS members and employers.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

ASSISTANT EXECUTIVE OFFICER

The Sierra Nevada Conservancy's proposal to allocate the above position to the CEA category has been approved effective November 28, 2006.

DEPUTY DIRECTOR, CRIME AND VIOLENCE PREVENTION CENTER

The Department of Justice's proposal to allocate the above position to the CEA category has been approved effective November 28, 2006.

DEPUTY DIRECTOR, HEALTH POLICY & LEGISLATIVE AND EXTERNAL AFFAIRS

The California Managed Risk Medical Insurance Board's proposal to allocate the above position to the CEA category has been approved effective December 14, 2006.

CHIEF, FACILITIES OPERATION BRANCH

The Department of Motor Vehicle's proposal to allocate the above position to the CEA category has been approved as a limited term allocation, for a period of twenty-four months, effective December 15, 2006.

CHIEF, TECHNOLOGY OFFICER

January 9, 2007

The Department of Social Services' proposal to allocate the above position to the CEA category has been approved effective December 20, 2006.

DEPUTY DIRECTOR, LEGAL AND LEGISLATIVE AFFAIRS

The Office of the State Chief Information Officer's proposal to allocate the above position to the CEA category has been approved effective December 20, 2006.

DEPUTY DIRECTOR, STRATEGIC PLANNING AND GOVERNANCE

The Office of the State Chief Information Officer's proposal to allocate the above position to the CEA category has been approved effective December 20, 2006.

DEPUTY DIRECTOR, STATEWIDE POLICY

The Office of the State Chief Information Officer's proposal to allocate the above position to the CEA category has been approved effective December 20, 2006.

DEPUTY DIRECTOR, ENTERPRISE INITIATIVES

The Office of the State Chief Information Officer's proposal to allocate the above position to the CEA category has been approved effective December 20, 2006.

PROGRAM MANAGER, MOTOR VEHICLE GREENHOUSE GAS EMISSION REDUCTION

The California Air Resources Board's proposal to allocate the above position to the CEA category has been approved effective December 20, 2006.

DEPUTY DIRECTOR, PLATA WORKFORCE PLANNING AND MANAGEMENT DEVELOPMENT, DIVISION OF CORRECTIONAL HEALTH CARE SERVICES (DCHCS)

The California Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective December 20, 2006.

ASSISTANT SECRETARY, OFFICE OF PROGRAM AND FISCAL AFFAIRS

The California Health and Human Services Agency's proposal to allocate the above position to the CEA category has been approved effective December 20, 2006.

ACTION: NOTED

28. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

29. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE

30. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

**31. PROPOSED REGULATION: DEPARTMENT OF MOTOR VEHICLES –
SPECIAL EXAMINATION AND APPOINTMENT PROGRAM**

AB 2903 added Government Code section 19602.5, making permanent a demonstration project adopted by the Board in December 2001 concerning the examination and selection of candidates for specified managerial and supervisory positions, subject to SPB rule. The State Personnel Board proposes to adopt a rule making this demonstration project permanent in accordance with AB 2903 and Government Code section 19602.5. The rule will continue to enable the Department of Motor Vehicles to conduct examinations for specified managerial and supervisory classes on a position-specific basis, providing for an improved recruitment and selection process and a more closely tailored applicant pool. Vote to adopt a rule making the demonstration project permanent.

Pursuant to Government Code section 18213, this rule may be adopted without public notice and comment, but shall be reasonably available to all interested parties.

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

32. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 27–30

A D J O U R N M E N T

**WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 22 – 24
AS NOTED.**

22. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On January 9, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

(1) CASE NO. 05-1737RPA

Appeal from dismissal

Classification: Psychiatric Technician Assistant

Department: Department of Developmental Services

Petition for Rehearing granted March 8, 2006.

Oral argument heard July 11, 2006.

Case ready for decision by FULL Board.

ACTION: The Board issued a non-precedential decision modifying appellant's dismissal from the position of Psychiatric Technician Assistant with the Department of Developmental Services to a Letter of Reprimand. Members Clarey and Sheehan dissented from the majority opinion.

(2) CASE NO. 05-3030A

Appeal from constructive demotion

Classification: Officer Technician

Department: Department of Developmental Services

Proposed decision rejected May 2, 2006.

Oral argument heard October 31, 2006.

Case ready for decision by FULL Board.

NO ACTION

- (3) **CASE NO. 06-1433**
Appeal from official reprimand
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

- (4) **CASE NO. 05-1875A**
Appeal from rejection during probationary period
Classification: Equipment Material Specialist
Department: Department of Transportation

Proposed decision rejected August 8, 2006.
Oral argument heard October 31, 2006.
Case ready for decision by FULL Board.

NO ACTION

- (5) **CASE NO. 05-1567A**
Appeal from dismissal
Classification: Housing Finance Specialist (General)
Department: California Housing Finance Agency

Proposed decision rejected July 11, 2006.
Oral argument heard December 5, 2006.
Case ready for decision by FULL Board.

NO ACTION

- (6) **CASE NO. 05-0078A**
Appeal from dismissal
Classification: Workers' Compensation Payroll Auditor
Department: State Compensation Insurance Fund

Proposed decision rejected May 23, 2006.
Oral argument heard September 5, 2006.
Case ready for decision by FULL Board.

ACTION: The Board issued a precedential decision revoking appellant's dismissal from the position of Workers Compensation Payroll Auditor with the State Compensation Insurance Fund.

(7) CASE NO. 06-1310

Appeal from 14 working days suspension

Classification: Regional Administrator

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

(8) PSC NO. 06-03

Appeal from Executive Officer Decision Disapproving Personal Services Contract for Unarmed Security Guard Services

Department: Department of California Highway Patrol

Employee Organization: Services Employees International Union, Local 1000 (CSEA)

Oral argument heard October 10, 2006.

Case ready for decision by FULL Board.

ACTION: The Board issued a decision approving the Master Services Agreement entered into between the Department of the California Highway Patrol and Inter-Con Security Services, Inc., for unarmed security guard services throughout the state. President Harrigan and Member Elkins dissented from the majority opinion.

(9) CASE NO. 00-3446A

Appeal to set aside resignation.

Classification: Police Officer.

Department: California State University, Fresno.

ACTION: The Board issued a non-precedential decision denying appellant's request to withdraw her resignation from employment as a Police Officer with California State University.

B. CASES PENDING

ORAL ARGUMENTS

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On January 9, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

(1) PSC No. 06-02

January 9, 2007

Appeal of AFSCME, Local 2620, AFL-CIO, from the Executive Officer's June 28, 2006, Approval of the Department of Corrections and Rehabilitation Personal Services Contracts for Psychological Services.

ACTION: SUBMITTED

(2) PSC No. 06-04

Appeal of California Air Resources Board, from the Executive Officer's August 15, 2006, Disapproval of a Personal Services Contract for Hearing Reporter Transcription Services.

ACTION: SUBMITTED

C. CHIEF COUNSEL RESOLUTIONS

On January 9, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

(1) CASE NO. 06-0892

Appeal from suspension

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation
Request to set-aside stipulation for settlement.

ACTION: The matter was taken under submission and will be considered during the Board's February 6, 2007 meeting.

COURT REMANDS

NONE

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On January 9, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

- (1) **CASE NO. 05-3786**
Appeal from dismissal
Classification: Staff Services Manager I
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (2) **CASE NO. 06-0235**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board rejected the ALJ's Proposed Decision modifying the dismissal and ask that parties brief certain issues.
- (3) **CASE NO. 05-3988E**
Denial of reasonable accommodation request
Classification: Supervising Registered Nurse II
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision denying the appeal.
- (4) **CASE NO. 05-1285**
Appeal from dismissal
Classification: Public Safety Dispatcher II
Department: Department of California Highway Patrol
ACTION: The Board rejected the ALJ's Proposed Decision modifying the dismissal and ask that parties brief certain issues.
- (5) **CASE NO. 06-3185**
Appeal from dismissal
Classification: Parole Agent I
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision dismissing the appeal and withdrawing the adverse action.
- (6) **CASE NO. 05-4259 & 05-3276E**
Appeal from demotion and discrimination complaint
Classification: Assistant Division Chief/Program Manager
Department: Department of Motor Vehicles
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the demotion and dismissing the discrimination complaint.

- (7) **CASE NO. 05-2327E**
Appeal from denial of discrimination complaint
Classification: Correctional Counselor II (Specialist)
Department: Department of Corrections and Rehabilitation
ACTION: The Board remanded the case back to the ALJ with instructions to draft a new proposed decision that provides a more detailed analysis.
- (8) **CASE NO. 06-2790**
Appeal from rejection during probationary period
Classification: District Representative
Department: Department of Housing and Community Development
ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.
- (9) **CASE NO. 06-0273**
Appeal from 48 working day suspension
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (10) **CASE NO. 06-2399**
Appeal from two step reduction in salary for twelve months
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (11) **CASE NO. 06-0773**
Appeal from five percent reduction in salary for six months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (12) **CASE NO. 06-1573**
Appeal from five percent reduction in salary for 6 pay periods
Classification: Youth Correctional Counselor
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision modifying the reduction in salary.

- (13) **CASE NO. 06-0014**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision modifying the dismissal.
- (14) **CASE NO. 05-1067**
Appeal from dismissal
Classification: Investigator
Department: Department of Motor Vehicles
ACTION: The Board revoked the ALJ's Proposed Decision modifying the dismissal and ask that parties brief the issue.
- (15) **CASE NO. 06-1526**
Appeal from ten working day suspension
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision revoking the suspension.
- (16) **CASE NO. 06-0363**
Appeal from back pay determination
Classification: Business Taxes Compliance Supervisor II
Department: Board of Equalization
ACTION: The Board adopted the ALJ's Proposed Decision awarding interest and ordering appellant to pay Board of Equalization \$1.58.
- (17) **CASE NO. 06-0268**
Appeal from ten working days suspension
Classification: Associate Governmental Program Analyst
Department: Department of Health Services.
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (18) **CASE NO. 05-1501E**
Appeal from denial of retaliation complaint
Classification: Associate Governmental Program Analyst
Department: Department of Motor Vehicles
ACTION: The Board adopted the ALJ's Proposed Decision denying the appeal.

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On January 9, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

(1) CASE NO. 05-2820P

Appeal from dismissal

Classification: Transportation Engineer (Civil)

Department: Department of Transportation

ACTION: Petition for rehearing denied.

(2) CASE NO. 06-0771P

Appeal from five percent reduction in salary for six pay periods

Classification: Academic Instructor

Department: Department of Corrections and Rehabilitation

ACTION: Petition for rehearing denied.

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) CASE NO. 05-1007EA

Appeal from denial of discrimination complaint

Classification: Outside contractor

Department: Department of Transportation

Proposed decision rejected December 19, 2006.

NO ACTION

- (2) **CASE NO. 05-0053A**
Appeal from dismissal
Classification: Park Maintenance Assistant
Department: Department of Parks and Recreation

Proposed decision rejected October 10, 2006.
Transcript prepared.
Pending oral argument February 6-7, 2007, Los Angeles.

NO ACTION

- (3) **CASE NO. 06-0760A**
Appeal from rejection during probation
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.
Transcript prepared.
Pending oral argument February 6-7, 2007, Los Angeles.

NO ACTION

- (4) **CASE NO. 05-2211A**
Appeal from dismissal
Classification: Senior Tax Compliance Representative
Department: Employment Development Department

Proposed decision rejected September 20, 2006.
Transcript prepared.
Pending oral argument February 6-7, 2007, Los Angeles.

NO ACTION

- (5) **CASE NO. 05-2888PA**
Appeal from dismissal
Classification: Staff Services Analyst (General)
Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.
Transcript prepared.

NO ACTION

- (6) **CASE NO. 05-0638A**
Appeal from dismissal
Classification: Conservationist I
Department: California Conservation Corps

Proposed decision rejected September 5, 2006.
Transcript prepared.
Pending settlement.

NO ACTION
- (7) **CASE NO. 04-2919ERPA**
Appeal of discrimination and retaliation
Classification: Physician and Surgeon
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted September 20, 2006.
Transcript prepared.

NO ACTION
- (8) **CASE NO. 05-0927BA**
Appeal for back salary determination
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected December 5, 2006.
Transcript prepared.

NO ACTION
- (9) **CASE NO. 05-4416PA**
Appeal from 10 percent reduction in salary for 13 pay periods
Classification: Medical Technical Assistant (Correctional Facility)
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted November 14, 2006.
Transcript prepared.

NO ACTION
- (10) **CASE NO. 06-0392A**
Appeal of five percent reduction in salary for 24 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision rejected October 31, 2006.
Transcript prepared.

NO ACTION

24. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On January 9, 2007, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

- (1) CASE NO. 05-3634**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; failed to submit requested documents.
ACTION: DENIED
- (2) CASE NO. 05-0394N**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; a negative employment record.
ACTION: DENIED
- (3) CASE NO. 05-4159**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; pending criminal prosecution.
ACTION: DENIED
- (4) CASE NO. 05-3638**
Classification: CHP Cadet
Department: California Highway Patrol
Issue: Suitability; omitted pertinent information.
ACTION: DENIED

- (5) **CASE NO. 05-2168**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information and furnished inaccurate information during the selection process.
ACTION: DENIED
- (6) **CASE NO. 06-0341N**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; failed to submit requested documents.
ACTION: DENIED
- (7) **CASE NO. 05-3206**
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; furnished inaccurate information and had a negative employment record.
ACTION: DENIED
- (8) **CASE NO. 06-0150N**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; illegal drug activity.
ACTION: DENIED
- (9) **CASE NO. 05-4147**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; failed to submit the requested documents.
ACTION: DENIED
- (10) **CASE NO. 05-3371**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information and has a negative employment and driving record.
ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented recommendations by a Hearing Panel on each appeal.

- **CASE NO. 06-3031N**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED
- **CASE NO. 06-1967**
Classification: Special Agent
Department: Department of Justice
ACTION: DISMISSED
- **CASE NO. 04-1855**
Classification: Fire Fighter I
Department: Department of Forestry and Fire Protection
ACTION: DISMISSED

C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

NONE

D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

NONE

E. REQUEST TO FILE CHARGES CASES

NONE

PETITIONS FOR REHEARING CASES

On January 9, 2007, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

- (1) CASE NO. 05-1295P**
Classification: Medical Technical Assistant - Psychiatric
Department: Department of Corrections and Rehabilitation
ACTION: DENIED

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. CASE NO. 05-1737RPA

Appeal from dismissal. Psychiatric Technician Assistant. Department of Developmental Services. (Oral argument held July 11, 2006.)

ACTION: The Board issued a non-precedential decision modifying appellant's dismissal from the position of Psychiatric Technician Assistant with the Department of Developmental Services to a Letter of Reprimand. Members Clarey and Sheehan dissented from the majority opinion.

7. CASE NO. 00-3446

Appeal to set aside resignation. Police Officer. California State University, Fresno. (Oral argument held September 5, 2006.)

ACTION: The Board issued a non-precedential decision denying appellant's request to withdraw her resignation from employment as a Police Officer with California State University.

8. CASE NO. 05-0078A

Appeal from dismissal. Workers' Compensation Payroll Auditor. State Compensation Insurance Fund. (Oral argument held September 5, 2006.)

ACTION: The Board issued a precedential decision revoking appellant's dismissal from the position of Workers Compensation Payroll Auditor with the State Compensation Insurance Fund.

9. PSC NO. 06-03

Appeal from Executive Officer Decision Disapproving Personal Services Contract for Unarmed Security Guard Services. Department of the California Highway Patrol. Service Employees International Union, Local 1000 (CSEA). (Oral argument held October 10, 2006.)

ACTION: The Board issued a decision approving the Master Services Agreement entered into between the Department of the California Highway Patrol and Inter-Con Security Services, Inc., for unarmed security guard services throughout the state. President Harrigan and Member Elkins dissented from the majority opinion.

10. CASE NO. 05-3030A

Appeal constructive demotion. Office Technician. Department of Developmental Services. (Oral argument held October 31, 2006.)

NO ACTION

11. CASE NO. 05-1875A

Appeal from rejection during probationary period. Equipment Material Specialist. Department of Transportation. (Oral argument held October 31, 2006.)

NO ACTION

12. CASE NO. 05-0947A

Appeal from dismissal. Housing Finance Specialist (General). California Housing Finance Agency. (Oral argument held December 5, 2006.)

NO ACTION

13. CASE NO. 06-1814

Appeal from official letter of reprimand. Correctional Officer. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

14. CASE NO. 06-1310

Appeal from 14 working days' suspension. Regional Administrator. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

15. CASE NO. 05-1975

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

16. CASE NO. 05-1466

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

17. CASE NO. 05-1977

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

18. CASE NO. 05-1029

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

19. CASE NO. 05-2290

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

20. CASE NO. 05-1169

Correctional Officer. Department of Corrections and Rehabilitation. Suitability; whether appellant's name was properly withheld for one DUI conviction. (Presented to Board December 5, 2006.)

NO ACTION

21. CASE NO. 05-1681

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

22. CASE NO. 05-1170

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

23. PSC No. 06-02

Appeal of AFSCME, Local 2620, AFL-CIO, from the Executive Officer's June 28, 2006, Approval of the Department of Corrections and Rehabilitation Personal Services Contracts for Psychological Services. (Oral argument held January 9, 2007.)

NO ACTION

24. PSC No. 06-04

Appeal of California Air Resources Board, from the Executive Officer's August 15, 2006, Disapproval of a Personal Services Contract for Hearing Reporter Transcription Services. (Oral argument held January 9, 2007.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

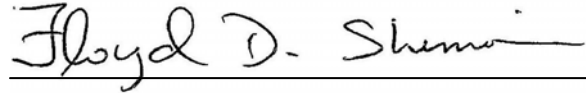
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on January 9, 2007.

VOTE: Harrigan, Sheehan, Tom, Elkins, Clarey – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd Shimomura
Executive Officer
California State Personnel Board